

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

BRENDA L. WEBSTER,	)	4:08CV3113
	)	
Plaintiff,	)	
	)	
vs.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
MICHAEL J. ASTRUE,	)	
Commissioner of the	)	
Social Security Administration,	)	
	)	
Defendant.	)	

This matter is before the court upon Plaintiff's application for attorney fees pursuant to the Equal Access to Justice Act ("EAJA"), [28 U.S.C. § 2412](#), in the amount of \$6,486.00. (Filing [28](#).) This sum represents 37.6 hours of work by Plaintiff's attorney, at an average hourly rate of \$172.50.<sup>1</sup> The Commissioner does not object to the amount of fees requested and has no objection to payment of the award directly to Plaintiff's counsel. (Filing [30](#).) [Ratliff v. Astrue, 540 F.3d 800, 801 \(8<sup>th</sup> Cir. 2008\)](#) (attorney's fees in social security EAJA case are awarded to the prevailing party's attorney, rather than to the party), *cert. granted*, 77 U.S.L.W. 3619, [2009 WL 1146426](#) (U.S. Sept. 30, 2009) (No. 08-1322).

The court has determined that Plaintiff was indeed the prevailing party in this action, as the Commissioner's decision was reversed and the matter was remanded for further proceedings; the application for fees was filed in a timely fashion; and the position of the Commissioner was not substantially justified. Plaintiff therefore is entitled to an award of reasonable attorney fees.

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<sup>1</sup> This average hourly rate equals the statutory maximum of \$125.00, adjusted on a monthly basis to account for inflation since March 1996.

Accordingly,

IT IS ORDERED that:

1. Plaintiff's application for attorneys fees pursuant to the Equal Access to Justice Act (filing [28](#)) is granted.

2. By separate document, the court shall enter judgment for Plaintiff and against Defendant, providing that Plaintiff is awarded attorney fees of \$6,486.00, payable to Plaintiff's counsel of record.

DATED this 21<sup>st</sup> day of October, 2009.

BY THE COURT:

*Richard G. Kopf*

United States District Judge

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